

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JASON ALTHEIDE,

4 Plaintiff

Case No. 3:18-cv-00408-MMD-CBC

ORDER

5 v.

6 JAMES DZURENDA et al.,

7 Defendants
8

9 **I. DISCUSSION**

10 On January 2, 2019, the Court entered a screening order and granted Plaintiff 30
11 days from the date of that order to file a second amended complaint or the case would
12 immediately proceed against Defendant Moore (Count III-administrative segregation due
13 process) and Defendant Gittere (Count VI- due process) only. (ECF No. 7 at 12-13). On
14 January 11, 2019, Plaintiff filed a "motion" that appears to add allegations and clarify
15 defendants in his first amended complaint. (ECF No. 8). The Court denies this motion.
16 If Plaintiff seeks to add allegations and clarify defendants in this case, he must file a
17 second amended complaint.

18 As noted in the screening order, if Plaintiff chooses to file a second amended
19 complaint he is advised that a second amended complaint supersedes (replaces) the
20 original and first amended complaints and, thus, the second amended complaint must be
21 complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d
22 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party was named in the original
23 complaint is irrelevant; an amended pleading supersedes the original"); see also *Lacey*
24 *v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed
25 with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended
26 complaint to preserve them for appeal). Plaintiff's second amended complaint must
27 contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in
28 this lawsuit. As such, Plaintiff has 30 days from the date of this order to file a second

1 amended complaint. If Plaintiff chooses not to file a second amended complaint, this
2 action will proceed against Defendant Moore (Count III-administrative segregation due
3 process) and Defendant Gittere (Count VI- due process) only.

4 **II. CONCLUSION**

5 For the foregoing reasons, it is ordered that the "motion" (ECF No. 8) is denied.

6 It is further ordered that Plaintiff has 30 days from the date of this order to file a
7 second amended complaint.

8 It is further ordered that, if Plaintiff chooses not to file a second amended complaint,
9 this action will proceed immediately against Defendant Moore (Count III-administrative
10 segregation due process) and Defendant Gittere (Count VI- due process) only.

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12 DATED THIS 15th day of January 2019.

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14 UNITED STATES MAGISTRATE JUDGE
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